

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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|--------------------------------------|---|--------------------------|
| Order Instituting Rulemaking Into    | ) |                          |
| Implementation of Federal            | ) |                          |
| Communications Commission Report     | ) | Rulemaking 04-12-001     |
| And Order 04-87, As It Affects the   | ) | (Filed December 2, 2004) |
| Universal Lifeline Telephone Service | ) |                          |
| <u>Program</u>                       | ) |                          |

**REQUEST OF NATIONAL CONSUMER LAW CENTER  
FOR AWARD OF COMPENSATION**

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## **I. Summary and Introduction**

Pursuant to the Public Utilities Code §1801 *et seq.*, and Rule 76.71 of the Commission's Rules of Practice and Procedure, the National Consumer Law Center ("NCLC") hereby requests intervenor compensation in the amount of **\$ 30,605.00** for our substantial contributions to D.07-05-030.

In this portion of the R.04-12-001 proceeding, the Commission responded to an extremely low response rate for the new California Universal Lifeline Telephone Service ("Lifeline") verification process. The Lifeline program, which provides discounted service to nearly 3.5 million low-income Californians was modified in D.05-04-026 to adopt a new certification and verification process necessary to ensure the continued receipt of over \$300 million in federal Lifeline funds. In D.05-12-013 and Resolution T-16996, the Commission revised to G.O. 153 to implement the D.05-04-026 changes to the Lifeline program. The new certification and verification processes were rolled out on July 1, 2006. However, the response rate for the new verification notices (29% in August 2006 and 49% in September 2006) were substantially lower than when the verification process had been handled by the carriers under the old program (over 70%). There was also an extremely high volume of Lifeline customers appealing their removal from the Lifeline program.

In response, Commissioner Gruenich issued an assigned Commissioner's Ruling ("ACR") on November 1, 2006 to suspend the provisions of GO 153 relating to the verification process for six months to allow time for staff to identify the causes of the low response rate and to begin ameliorating the problem. The ACR was ratified by the Commission on November 9, 2006 in D.06-11-017. Workshops were convened on November 13 and 14, 2006 for staff, carriers, the certifying agent (Solix) and consumer groups to discuss the causes and possible solutions to the low verification response rate. Two working groups were established at the end of the workshops to focus on verification implementation and marketing issues. NCLC has been participating regularly in both working groups. Commissioner Gruenich issued another ACR on February 28,

2007 directing carriers to immediately comply with D.06-11-017 and an All Party Meeting was held on March 3, 2007. NCLC participated in the All Party Meeting.

NCLC has been working very closely with the other consumer organizations, TURN, Disability Rights Advocates and Latino Issues Forum (together forming the “Joint Consumers”) to effectively address the array of consumer issues due to the problems with the rollout of the new verification process and to present a single consumer position on the modification and implementation of the ULTS program. This collaboration and the efficient division of labor between the consumer groups resulted in the vigorous advocacy of the interests of low-income California consumers who participate in or are eligible for the ULTS program.

## **II. Timely Filing of Request for Award of Compensation**

This request is timely under Public Utility Code §1804 (c) because it is being filed within 60 days of the issuance of D.07-05-030 on May 3, 2007. NCLC notes that this docket has remained open since the last round of decisions that set forth the certification and verification process changes to the ULTS program, D. 05-04-026 and D.05-12-013 and Resolution T-16996. In the earlier proceeding, NCLC submitted a timely notice of intent (NOI) to seek intervenor compensation on February 10, 2005 which was approved by the Commission on March 8, 2005. On April 13, 2006 NCLC was awarded Intervenor compensation for its work leading to D.05-04-026 and D.05-12-013. This current request covers the recent round of NCLC activity from responding to the November 1, 2006 ACR Temporarily Suspending Portions of General Order 153 Relating to the Annual ULTS/California Lifeline Verification Progress and up to the May 3, 2007 adoption of D.07-05-030 adopting strategies to improve the California Lifeline Certification and Verification Processes, and Reinstating Portions of General Order 153. This request includes a detailed description of the expenditures and services NCLC devoted to this case and of NCLC’s substantial contribution to the proceeding in accordance with § 1804(c). Also, this request demonstrates that the benefits of NCLC’s participation outweighed the costs and that NCLC

represented interests that would have been underrepresented if not for the availability of intervenor compensation.

### **III. Customer Status and Significant Hardship**

On March 8, 2005, ALJ Karen A. Jones ruled that NCLC is a Category 3 customer as defined in Public Utility Code § 1802 (b), has fulfilled the eligibility requirements of Public Utility Code § 1804 (a), has made the requisite showing of significant financial hardship, and is eligible for compensation.

### **IV. Substantial Contribution to Resolution of the Issues**

NCLC's participation in this proceeding readily meets the requirements for establishing a substantial contribution to the Commission's decision D.07-05-030. NCLC has collaborated very closely with the other consumer groups, TURN, DRA and LIF in this phase of the proceeding. NCLC has taken an active role in a Joint Consumer group effort to work with staff, carriers and the certifying agent, Solix, in identifying and addressing the new verification procedure's low response rate. NCLC worked with TURN, DRA and LIF to provide a vital, unified contribution to the issues we raised in the proceeding, and the sum of our efforts is larger than the individual contributions alone. The consumer groups conferred before each round of comments and the 2-day workshop and All-Party meeting and used a consensus process to identify issues and proposed responses to problems. NCLC often took the lead coordinating the joint consumer comments in this phase of R.04-12-001 addressing the problems with the new Lifeline verification process. NCLC has also been active in the Marketing and Implementation Working Groups and in sharing the developments from these regular working group conference calls with the other consumer groups. This highly coordinated effort allowed for consumer interests to be represented efficiently on the vast array of issues affecting low-income consumers in this proceeding.

The magnitude of the issues at hand in this proceeding have a profound impact on low-income Californians. The problems in the rollout of the new verification program have resulted in a low response rate for to the new verification forms and the inappropriate denials of eligible Lifeline customers due to a myriad of issues including lack of awareness of the new Lifeline program and processes, delays and lost Solix mailings due to the use of standard mail instead of 1<sup>st</sup> class mail, carrier and certifying agent system designs that were creating barriers and confusion for customers resulting in a wave of consumer complaints and appeals and a corresponding urgency to identify, address and remove the problems for eligible consumers. NCLC and its partner consumer groups came together, as we had in the earlier rounds of this proceeding to preserve access to this vital telephone service subsidy, and provide a united consumer voice to the deliberations leading to D.07-05-030. While NCLC will refer to itself in the discussion of “substantial contribution,” the vast number of the consumer positions taken and adopted by the Commission were the result of the work of the joint consumer coalition.

Under Public Utility Code § 1802(h), an organization has made a “substantial contribution” to Commission proceedings if:

...in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more of the factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer...[E]ven if the decision adopts that customer’s contention or recommendation only in part, the commission may award the customer compensation for all reasonable advocate’s fees, reasonable expert witness fees, and other reasonable costs incurred ... in preparing or presenting that contention or recommendation.

In a 1999 decision, *Application of Pacific Bell (U 1001 C) and Pacific Bell Information Services to Notify the Commission to Enter the Electronic Publishing Services Market*, D. 99-08-006, 1999 Cal. PUC LEXIS 497 (Aug. 5, 1999), the Commission elaborated on this standard as follows:

A party may make a substantial contribution to a decision in various ways. It may offer a factual or legal contention upon which the Commission relied in making a decision. Or it may advance a specific policy or procedural recommendation that the ALJ or

Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision, even if the Commission does not adopt a party's position in total. The Commission has provided compensation even when the position advanced by the intervenor is rejected.

1999 Cal. PUC LEXIS 497, \*3-4. NCLC's legal arguments, policy contentions and factual contributions to the record unquestionably made a "substantial contribution" as defined in § 1802(h) and interpreting decisions of the Commission.

NCLC also notes that in D.06-04-021 the Commission, in describing the "substantial contribution" analysis stated that, "Should the Commission not adopt any of the customer's recommendations, compensation may still be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution."<sup>1</sup>

**A. Importance of case to consumers**

Consumer participation in this proceeding was essential because 3.4 million low-income California consumers participate in the Lifeline program. California's ULTS is a \$570 million program -- of which \$330 million is from the Federal Lifeline and Link-Up program -- that provides discounted local phone service and discounted connection rates to eligible low-income California consumers. In order to comply with the new Federal Lifeline and Link-Up rules, the Commission embarked on an aggressive schedule to modify the ULTS program.

On December 2, 2004, the Commission issued an Order Instituting Rulemaking into the implementation of the Federal Communication's Report and Order, FCC No. 04-87 (Lifeline/Link-Up Order), as it affects California's Universal Lifeline Telephone Service (ULTS) program. This rulemaking was a quasi-legislative proceeding. The FCC's new Lifeline/Link-Up rules require states like California that have their own Lifeline program and that use income-eligibility to start documenting customers' income qualifications in addition to other certification

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<sup>1</sup> D.06-04-021 (April 13, 2006) at 7.

and verification elements. States with their own Lifeline and Link-Up programs have the flexibility to develop their own certification procedures as they meet the FCC's new certification and verification requirements. Unfortunately, the transition to the new verification and certification process occurred in a very compressed timeframe and very serious implementation problems ensued leading to an ACR temporarily suspending the verification process (ratified on November 9, 2006) and D.06-11-017.

**B. NCLC Significantly Contributed to the Record and the Final Decision**

NCLC was very involved in this phase of the proceeding and made a substantial contribution on many issues adopted in D.07-05-030.<sup>2</sup> This rulemaking affected a very large, core telecommunications consumer program that assists 3.4 million low-income Californians and draws in \$330 million in federal Lifeline subsidies. It is not an understatement to say that this rulemaking was a high priority for the consumer representatives. In this phase of the proceeding, NCLC has been very active in the drafting of Joint Consumer comments and participating in the meetings and working group conference calls. While the decision addresses many of NCLC's contributions as a member of the Joint Consumers group, the following is a representative list of our contribution to this proceeding:

*1. Improved Marketing and Outreach Efforts*

NCLC has been very concerned that the lack of adequate consumer education of the profound changes to the Lifeline program, which included a new name for the program ("Lifeline"), new eligibility criteria (income-based and program-based eligibility), new verification forms (which are much longer and look very different than the carrier verification forms), a new process for verification and certification using a certifying agent (as opposed to the consumer's carrier) and new anniversary dates for existing Lifeline customers to verify continued

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<sup>2</sup> NCLC filed joint pleadings in every instance in this proceeding and, while referring to itself, does so with the understanding that a great number many of the positions taken and adopted by the Commission were the result of the work of the joint consumer coalition.



eligibility has played a large role in the low response rate to the new verification applications. We have addressed the need for intensified marketing and outreach efforts in our comments,<sup>3</sup> at the 2-day workshop in November 2006 and in the Implementation and Marketing Working Group conference calls.

In the workshop, All-Party meeting, in comments<sup>4</sup> and in the working groups, NCLC has advocated for a more robust marketing, outreach and education effort to promote the new program to eligible consumers. NCLC has also urged staff, carriers and Solix to better use community-based organizations promoting the new program and acting as a resource to help explain the new processes for certification and verification. NCLC has been very active in promoting the consistent use of color and logos to begin the process of “branding” the new Lifeline program and has pressed for the use of both the old program name and the new program name in the initial round of communications to Lifeline customers to help reinforce the message that the program has a new name. In the working groups NCLC has been supportive of efforts to increase the number of Lifeline consumer “touches” to help promote the new Lifeline program and to help consumers work their way through the new forms and processes. NCLC has provided feedback on the wording of carrier and Solix notices to existing and new Lifeline consumers to help explain the new program. D.07-05-030 provides for additional reminders and notices to customers (FOL #6, Order #1 ) and carrier correspondence to existing customers to coincide with the relaunch of the new verification process (Order #6). NCLC has viewed

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<sup>3</sup> Comments of Utility Reform Network, the National Consumer Law Center, Disability Rights Advocates and the Latino Issues Forum on Commissioner Gruenich’s Ruling Temporarily Suspending Portions of G.O. 153 Relating to the Annual ULTS/California Lifeline Verification Process (Joint Consumers Comments on ACR); Comments of Utility Reform Network, the National Consumer Law Center, Disability Rights Advocates and the Latino Issues Forum on the Proposed Decision Adopting Strategies to Improve the California Lifeline Certification and Verification Processes, and Reinstating Portions of General Order 153 and the Draft Staff Report (Joint Consumers Comments on Draft Decision), and Reply Comments of Utility Reform Network, the National Consumer Law Center, Disability Rights Advocates and the Latino Issues Forum on the Proposed Decision Adopting Strategies to Improve the California Lifeline Certification and Verification Processes, and Reinstating Portions of General Order 153 and the Draft Staff Report (Joint Consumers Reply on Draft Decision).

<sup>4</sup> See Joint Consumers Comments on ACR at 3 and Joint Consumers Comments on Draft Decision at 4-5.

outreach and education as critical for maintaining a high enrollment rate in this critical program and has thus focused much of its efforts on this.

## *2. Mailing and Timeline Issues*

NCLC has been very concerned about the inadequacies of the certifying agent's use of standard mail as opposed to 1<sup>st</sup> class mail. Indeed, the Commission has noted that Joint Consumers, along with the other parties, strongly support the move to 1<sup>st</sup> class mail (D.07-05-030 at 20). We stated that it was imperative to move as expeditiously as possible to using 1<sup>st</sup> class mail in our discussion supporting the expansion of the timeline via the proposal modifying G.O. 153 Appendix E. (Joint Consumer Comments on Draft Decision at 2). While we had asked that the Commission continue with the suspension until the verification problems were fixed, we also strongly supported AT&T's proposal that the Commission conduct a 10% sample test once the verification was lifted (Joint Consumer Reply on Draft Decision at 1). The Commission in D.07-05-030 has ordered the Communications Division to take the steps necessary to implement 1<sup>st</sup> class mail for all aspects of Lifeline as quickly as possible (Order #5) and lifted the suspension of the verification process for a 20% random sample of customers (to be gradually increased to 100% upon review of the results and any additional adjustments)(Order #12).

In an effort to facilitate the successful verification of eligible Lifeline consumers, NCLC was also supportive of the staff's proposed expansion of the Verification and Certification timelines modifying G.O. 153 Appendix E (Joint Consumer Comments on Draft Decision at 2). The Commission adopted the proposed expanded timeline (Order #1).

## *3. Other Important Issues: backbilling, web-based tool; database true-ups*

NCLC advocated for gathering information on whether carriers are backbilling large amounts under the expanded timeline and to address this issue in the second phase of the proceeding. (Joint Consumers Reply on Draft Decision at 3). NCLC also advocated for the use of reasonable payment plans should consumers have problems with large backbills due to the expanded timeline. (Joint Consumers Reply on Draft Decision at 3). The Commission has

adopted our recommendation to address the backbilling issue in Phase 2 of this proceeding, dealing with longer term strategies. The Commission, while not at this time ordering that carriers allow customers to pay the backbilled amounts over three months, strongly encouraged them to work with customers on special payment arrangements on a case-by-case basis. (D.07-05-030 at 13).

NCLC advocated for the timely development of the web-based system as a tool for Lifeline consumers (Joint Consumers Comments on Draft Decision at 6-7 and Reply at 4) and the Commission added an item in its Order requiring staff to monitor the process of implementation of the web-based system to ensure that Solix completes its development work in the time period established in D.05-12-013 (Order #15).

NCLC has also been supportive of carrier requests for regular true-ups of the Lifeline database (Joint Consumers Reply on Draft Decision at 5 and the auditing of Solix (Joint Consumers comments on Draft Decision at 3).

#### *4. Importance of Consumer Groups Participation*

NCLC has participated in this phase of the proceeding to help ensure that the consumer perspective was well represented in comments, workshops and the public meeting and in the ongoing and productive Implementation and Marketing working groups.

The Commission has noted the value of the contribution of the consumer groups in D.07-05-030 where it states: “The synergies of having working groups comprised of staff, carriers, Solix and consumer groups were an invaluable tool in developing the creative proposals found in the Staff Report. . . .Consumer groups should be represented on both working groups so that staff has the benefit of their view points and expertise.” (D. 07-05-030 at 35)<sup>5</sup>

As defined in Public Utility Code § 1802(h) NCLC in Rulemaking 04-12-001 has made a “substantial contribution” to the Commission’s decisions.

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<sup>5</sup> See also D.07-05-030 Order #17.

V. **Lack of Duplication Of Efforts And Overall Benefits Of Participation**

A. **Lack of Duplication**

NCLC contributed to the proceeding in a manner that did not duplicate contributions made by other intervenors. As a factual matter, NCLC collaborated closely with other consumer groups to avoid duplication wherever possible. NCLC filed jointly with TURN, LIF and DRA in every instance. The fact that the consumer groups worked together to form unified consumer positions strengthened and enhanced the consumer advocacy. This was very important in a proceeding such as this where there was an exceedingly tight timeframe to address the problems with the implementation of the new Lifeline verification process and the resources of the individual consumer groups were limited. In many instances, due to the limited resources of the other consumer groups, NCLC has been the lead consumer group on the Implementation and Marketing Working Group calls and has shared developments from those conference calls with the other Joint Consumers in order to keep the consumer groups up to date on the progress of the working groups. The intervenor compensation statute allows for full compensation despite some overlap in the contributions of parties to PUC proceedings.<sup>6</sup>

As a legal matter, a recent Commission decision makes it clear that “the intervenor compensation statute does not permit the reduction of an award on the basis of duplicative participation once the Commission has determined that the intervenor has made a substantial contribution to a Commission’s decision or order.”<sup>7</sup> The Commission noted that this new decision “marks a departure from prior decisions” that permitted reduction of a fees claim based on duplication of efforts.<sup>8</sup> The new policy should be applied here because NCLC and the

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<sup>6</sup> Public Utility Code § 1802.5 provides, “Participation by a customer that **materially supplements, complements, or contributes** to the presentation of another party...may be fully eligible for compensation if the participation makes a substantial contribution to a commission order or decision, consistent with Section 1081.3.” (emphasis added)

<sup>7</sup> *In the Matter of the Joint Application of GTE Corporation and Bell Atlantic Corporation to Transfer Control of GTE’s California Utility Subsidiaries to Bell Atlantic*, D. 04-07-039, at 1 (July 13, 2004).

<sup>8</sup> D. 04-07-039, at 5.

other consumer groups have made a substantial contribution to this important proceeding as can be demonstrated through the comments of the commission in D.07-05-030: “The synergies of having working groups comprised of staff, carriers, Solix and consumer groups were an invaluable tool in developing the creative proposals found in the Staff Report. . . .Consumer groups should be represented on both working groups so that staff has the benefit of their view points and expertise.” (D. 07-05-030 at 35). This is a proceeding affecting the most vulnerable telecommunications consumers in California. It is one where every facet of the proceeding required the consumer perspective. Each consumer group brought a different and valuable perspective to the weighing of the merits of the issues and the strategic decision on the issues to press. NCLC provided the national perspective and the expertise on low-income utility consumer programs.

But as already noted, even if reductions of time for duplication of effort were allowed, NCLC took all reasonable steps to avoid duplication of the efforts of other consumer groups. In light of these coordination efforts, the Commission should feel comfortable that NCLC’s efforts did not duplicate the efforts of other parties. Further, under the recent decision, D. 04-07-039, the Commission should not consider reducing NCLC’s hours under the rubric of “duplication of efforts” once the Commission determines that NCLC has made a substantial contribution to this case.<sup>9</sup>

#### **B. Overall Benefits of NCLC’s Participation Outweighed the Costs**

The Commission has in the past noted that in order to receive a compensation award, a party must show that “the costs of participation . . . bear a reasonable relationship to the benefits realized through such participation.”<sup>10</sup> As the Commission has noted in the Bill of Rights

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<sup>9</sup> *Id.* at 1.

<sup>10</sup> *Investigation to Consider the Costs and Benefits of Various Promising Revisions to the Regulatory and Market Structure Governing California’s Natural Gas Industry*, D. 02-11-070, Opinion on Requests for Intervenor Compensation, at 17 (Nov. 22, 2002).

proceeding, “[I]t is often the case that regulations that protect public health, safety and welfare impose significant costs on the regulated industry that can be estimated, even if imprecisely, while providing benefits that cannot easily be reduced to dollar terms.”<sup>11</sup> The benefits realized through NCLC’s participation are hard to quantify in dollar terms because the ultimate benefits to consumers, while unquestionably large, are hard to quantify. We note that this proceeding is of vital importance to the 3.4 million current California Lifeline customers who will be undergoing the new Lifeline verification process and that the California Lifeline program provides over \$ 300 million in federal support and over \$250 million in state Lifeline support to low-income Californians to make basic phone service affordable. In this case the benefits of NCLC’s participation clearly outweigh the costs.

### **C. Interests Represented By NCLC**

Code § 1801.3 states in part, “This article shall be administered in a manner that avoids unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented.” The Commission has interpreted this to mean that to receive compensation an intervenor must represent “customer interests that would otherwise be underrepresented.”<sup>12</sup> NCLC provided a national perspective on low-income utility assistance programs and represented the interest of low-income consumers. NCLC took the lead on certain legal and policy issues which otherwise would not have received adequate attention from consumers representatives due to the vast array of issues raised in this rulemaking and the very tight timeframe to substantially adjust the problematic verification process. The involvement of NCLC has facilitated a unified and more comprehensive coverage of this proceeding by the Joint Consumer Groups and has helped the consumer groups efficiently monitor and participate in the numerous Implementation and Marketing Working Group meetings. The Commission can thus

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<sup>11</sup> D.04-12-001 at 138, *quoting Reply of NCLC, TURN, UCAN and CU to Wireless Industry Motion for Leave to File Economic Analysis*, at 8-9.

<sup>12</sup> D.98-04-059.

readily conclude that consumers would have been under-represented were NCLC not present, especially in light of the limited consumer group resources available.

## **VI. Itemization of Services and Expenditures**

### **A. Summary**

In this filing, the National Consumer Law Center is requesting compensation in the total amount of **\$ 30,605.00** for the time reasonably devoted to this proceeding, as well as for the expenses we incurred for our participation. The following is a summary table and explanation of hours claimed, hourly rates, and direct expenses. A more detailed breakdown of the time devoted to this proceeding by the National Consumer Law Center's representatives is provided in Appendix A to this filing.

| <b>Attorney</b>    | <b>Year</b> | <b>(Hours)</b> | <b>x</b> | <b>(Rate or 1/2 rate)</b> | <b>= \$ Total</b>     |
|--------------------|-------------|----------------|----------|---------------------------|-----------------------|
| Olivia Wein        | 2006        | 31.75          |          | \$275                     | = \$ 8731.25          |
|                    |             | 9              |          | \$ 137.5 (1/2 rate)       | = \$ 1237.50          |
| Olivia Wein        | 2007        | 63             |          | \$275.00                  | = \$ 17325.00         |
|                    |             | 22.5           |          | \$ 137.5 (1/2 rate)       | = \$ 3093.75          |
| Charles Harak      | 2006        | 0.5            |          | \$435                     | = \$ 217.50           |
| <b>Total Hours</b> |             | <b>126.75</b>  |          | <b>Total Amount</b>       | <b>= \$ 30,605.00</b> |

### **B. Attorney Hours and Expenses Claimed Are Reasonable**

A detailed listing of the specific tasks performed by Olivia Wein and Charles Harak in connection with this proceeding is available in Appendix A. Olivia Wein has carefully reviewed the hours to include only time directly related to the proceeding itself, including: legal research; drafting of comments; review of comments, motions and filings of other parties; participation in Commission workshops, public meeting on Lifeline verification issues and the Implementation and Marketing working group meetings; and coordination with other consumer groups to

efficiently divide tasks, and avoid duplication and minimize time spent on issues that others could handle equally as well or better. Ms. Wein has been in charge of the case since NCLC intervened. Ms. Wein kept detailed, contemporaneous time records in this proceeding.<sup>13</sup> Her time should be fully compensated.

Mr. Harak provided brief, but expert consultation on NCLC's advocacy positions mid-way through the proceeding to provide additional legal guidance for the issues identified by the consumer groups.

By having one experienced attorney manage this proceeding from beginning to end for NCLC, and, with the limited exception just noted, perform all of the legal and policy work, NCLC was able to ensure that the work was performed efficiently and effectively. All of the hours claimed should be compensated.

### **C. Proposed Allocation By Issue**

In accordance with the Commission's prior compensation decisions,<sup>14</sup> NCLC has allocated Ms. Wein's time by issue or activity. By doing so, NCLC is not suggesting that there is any basis for awarding it compensation for some issues but not others. NCLC seeks compensation for all hours it has submitted. Public Utility Code §§ 1802(h) and 1803 make it clear that the Commission may award full compensation to an intervenor who has made a "substantial contribution" to a proceeding even if the Commission does not fully adopt the intervenor's position on each discrete issue.<sup>15</sup> In the present proceedings, the Commission was seeking to adopt a major modifications to its ULTS program to comply with the new federal Lifeline/Link-Up rules. In a rulemaking proceeding such as the present one, the very purpose of allowing intervenors to comment is to help inform the Commission's overall decision making as well as to make detailed decisions on how to modify and implement the new program. Every

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<sup>13</sup> The detailed time sheets for Ms. Wein and Mr. Harak are appended to this request.

<sup>14</sup> See, e.g., D. 85-08-012.

<sup>15</sup> The Commission has in fact done so. See, e.g., D. 98-04-028, D. 98-08-016, D. 98-08-008.



facet of this rulemaking affects low-income telecommunications consumers in some manner, and the nature of the collaborative process used by the consumer groups required each of the groups to take the lead on assigned issues, but also provide feedback on the full range of issues addressed by the consumer groups. Thus it is not possible to allocate, beyond a broadbrush approach, the percentage of time spent on each consumer issue. NCLC and the other consumer representatives each made a substantial contribution to the proceedings and prevailed on their basic positions.

Following the principles regarding categorization of activities described in D. 85-08-012, NCLC's timekeeping provides detailed descriptions of staff time. Thus, it is possible to break out time spent on the workshops, the Implementation and Marketing working groups, the preparation of comments, conference calls with the other consumer groups and time spent on compensation matters. NCLC's timeslips describe in some detail the types of issues covered by attorneys in preparation of comments and participation in the workshop and meetings. For example, for accessibility of the various Lifeline documents ("printed materials ADA compliance, language translations," "translations"); increased Lifeline education or "touches" ("auto-dialer-ADA, telemarketing," "DC and OH use of autodialers"); additional outreach on the new program ("outreach" "CBOs," "agencies," "Fed pub requirements" "marketing and outreach"); billing problems for consumers initially converted back to regular phone service ("fees"); oversight of Solix as the certifying agent ("oversight," "oversight data on complaints" "Solix audit"); problem with delivery of forms using standard mail ("standard mail/timeline"); the issue of addressing

However, there are many instances in which NCLC worked on more than these identified major issues during the course of a day and it is not easy to allocate the time spent by specific issue category. The breadth of issues raised in the Joint Consumer filings and at the workshops attests to the range of issues we addressed. NCLC denotes this time with "#####". The issues included in this designation are different depending on the time in question, but NCLC estimates that of this time 65 % of Ms. Wein's time was spent on marketing (including branding, education and outreach) and 35 % on the array of implementation issues of the new verification program. Time

spent on travel and preparation of the intervenor compensation request are clearly noted in the timeslips and are calculated at one half the requested attorney rate.

**D. The Requested Hourly Rates Are Reasonable**

*1. Attorney Olivia Wein*

NCLC requests \$275 per hour for the work performed by Ms. Olivia Wein in 2006 and 2007. Ms. Wein is a 1995 graduate of the Golden State School of Law. She is a member of the bar in California, Maryland, and the District of Columbia.<sup>16</sup> She holds a Bachelor of Arts from Barnard College at Columbia University and a Masters of Education from the Teachers College at Columbia. Since graduating from law school, Ms. Wein has held a number of public interest positions, including significant work on telecommunications issues. From 1995 to 1997, she worked at Lead Safe California as a staff attorney and policy analyst. From the beginning of 1998 through late 1999, she was an Economic Justice Fellow with Consumers Union (CU). She worked closely with CU's co-director, Gene Kimmelman, on telecommunications issues, including the funding for universal service programs, phone rates, and the digital divide. At the end of 1999, she worked directly for consumer advocate Dr. Mark Cooper, performing research and writing on a range of telecommunications issues. Since the beginning of 2000, Ms. Wein has been a staff attorney at NCLC, specializing in energy and utility issues. She is on the board of the National Low-Income Energy Consortium and plays a large role in planning the agenda for NLEEC's annual conference, as well as making presentations on various utility issues. She is an editor and author of *Access to Utility Service*, NCLC's major consumer treatise on electric, gas, and telephone issues. She is additionally familiar with the concerns of telephone consumers, through her work in researching and writing *Telephone Service: What You Need To Know – A Guide to Telephone Services in the State of Washington*. In 2005 Ms. Wein co-authored, NCLC's "*A Consumer Advocate's Guide to Utility Services*," a guidebook for front-line workers who help

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<sup>16</sup> In 2002, Ms. Wein went on inactive status in California as she had already been living in D.C. for several years.

poor and elderly clients identify utility issues and help their clients avoid termination, locate financial assistance and otherwise assist clients confronting utility problems. Ms. Wein has also been active in filing comments at the Federal Communications Commission in a range of dockets affecting low-income consumers, including supporting the CPUC's request for an extension in this proceeding, urging consumer protections in the broadband era (which includes a discussion of the Digital Divide), arguing against the preemption of a state's ability to protect consumers in truth-in-billing matters, arguing against the preemption of early termination fee regulations for wireless service and arguing against the preemption of telemarketing protections. Ms. Wein also writes about telecommunication matters in other NCLC legal manuals, *Unfair and Deceptive Acts and Practices* and *Fair Debt Collection Practices*.

In 2002, Ms. Wein was awarded an hourly rate of \$235 in D.04-12-054 at 40. In that proceeding, Ms. Wein worked with Mr. Harak in the capacity of a senior associate, with Mr. Harak as the lead attorney. In 2006, Ms. Wein was awarded an hourly rate of \$255 in D.06-04-021. In this proceeding, Ms. Wein was NCLC's lead attorney and has substantially increased her expertise in low-income telecommunications consumer issues in front of this commission.

In light of her 12 years of experience as an attorney, and her five years of specialized skills on telecommunications issues in front of this Commission, a rate of \$275 per hour for work performed in 2006 and 2007 is fair and reasonable, if not conservative. NCLC has attached, in Appendix A, a copy of the U.S. Attorney's Office for the District of Columbia's Laffey matrix (last updated 4/13/2007) for hourly rates for attorneys in "fee-shifting" cases permitting "reasonable" attorney fees. According to the Laffey matrix, an attorney 8 to 10 years out of law school would merit an hourly rate of \$290 in 2005-2006 and an attorney 11 to 19 years out of law schools would merit an hourly rate of \$360 in 2005-2006. Furthermore, in D. 04-10-032, at 11, the Commission awarded Gallardo, a 1997 law school graduate, \$275 per hour for work done in 2004 (and the decision noted that \$275 was the same rate awarded to Itzel Berrio, another 1997 law school graduate, for work performed in 2003). As a 1995 graduate, Ms. Wein had two more

years of experience than these attorneys. She also has a well-developed specialty in utilities law. Thus the request of \$275 per hour for 2006 and 2007 work for Ms. Wein is reasonable, if not conservative.

## *2. Attorney Charles Harak*

NCLC requests the following hourly rates for the work performed by Mr. Harak: \$435 (2006). In D.04-12-054 at 42, the CPUC found the hourly rate of \$435 for Mr. Harak in 2003 and 2004 to be reasonable. We are not seeking an increase in that rate for Mr. Harak's consultation in this proceeding as his time in this docket has been minimal.

Mr. Harak received his Bachelor of Arts degree from Cornell University in 1972 and his J.D. from Northeastern University in 1976. He has been a member of the Massachusetts bar since February, 1977, and thus has more than 28 years of experience as an attorney. He has been an instructor of law at Boston College Law School (1976 -1977); a staff attorney for the Massachusetts Public Interest Research Group (1978 - 1979); a staff attorney at the Massachusetts Law Reform Institute, specializing on energy and utility issues (1979 - 1995); an attorney in the utilities and insurance division of the Office of the Massachusetts Attorney General (1995 - 1998); of counsel with the firm of Bernstein, Cushner & Kimmell (1998 – 2001) (primarily representing municipal and non-profit clients on utility issues); and senior attorney at NCLC's energy and utilities project (2001 – 2005).

Mr. Harak has represented a range of consumer, environmental and labor organizations in proceedings before five different state commissions (Massachusetts, New Hampshire, Ohio, New York and California), including prior, successful appearances before this Commission. He has successfully represented low-income clients on energy, utilities, and housing issues in cases before the Massachusetts trial court, Appeals Court, and Supreme Judicial Court; the federal district court for the district of Massachusetts; and the First Circuit Court of Appeals. Most recently, he represented low-income intervenors in a successful appeal to the Second Circuit Court of Appeals of the decision of the Department of Energy to roll back an increase in air

conditioner efficiency standards that had been previously approved in 2001. *Natural Resources Defense Council v. Abraham*, 355 F.3d 179 (2<sup>nd</sup> Cir., Jan. 13, 2004) (reversing DOE action to reduce efficiency standards).

In the area of telecommunications, Mr. Harak has litigated cases involving access fees and securing the “211” three-digit dialing code as an information-and-referral number for the United Way in Massachusetts. He has filed comments in various lifeline dockets before the FCC, and advocated before the Massachusetts PUC for mechanisms to automatically enroll lifeline-eligible households.

Mr. Harak is the author and/or editor of a number of newsletters, handbooks, and treatises on a broad range of utility and energy issues, including: *The Right to Light (and Heat) Handbook* (1984) (consumer- oriented handbook); *Legal Tactics* (4<sup>th</sup> ed. 1987; 5<sup>th</sup> ed. 1994) (consumer-oriented legal treatise on landlord/tenant law); *Energy Network Newsletter* (periodical, 1979 – 1987); *Energy & Utilities Update* (2001 – 2004) (NCLC’s quarterly newsletter for low-income energy advocates); and *Access to Utility Service* (3<sup>rd</sup> ed.) (legal treatise on energy/utilities issues).

Mr. Harak is a frequent presenter at various energy and utility conferences, including NARUC, NECPUC (the New England version of NARUC), and the annual National Low-Income Energy Conference, among others. He recently received the President’s Award from the Massachusetts Community Action Program Directors’ Association for his more than 20 years of advocacy on behalf of low-income households.

In light of Mr. Harak’s experience, the requested rates are reasonable. Mr. Harak has previously appeared before this Commission in various electric and telephone proceedings and also appeared before the commissions of four other states in literally dozens of proceedings of all types. He has devoted virtually his entire legal career to representing the interests of low-income consumers on a range of utility issues.

Mr. Harak's experience in proceedings and consumer work around the country brings its own unique value to his work in this proceeding. In summary, the Commission should allow hourly rate for Mr. Harak of \$435 in 2005.

**VII. Conclusion**

The National Consumer Law Center has satisfied the requirements of timely filing an NOI, customer status, and demonstration of financial hardship. The National Consumer Law Center has made a substantial contribution in a productive and efficient manner and has avoided duplication where possible. Additionally, the National Consumer Law Center has provided a detailed itemization of the costs of participation and has demonstrated the reasonableness of the requested hourly rates. The National Consumer Law Center has met all the requirements of Section 1801 *et seq.* of the Public Utilities Code, and therefore respectfully requests compensation in the amount of **\$ 30,605.00** as detailed above.

Respectfully Submitted,

/s/ Olivia Wein

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Dated: July 2, 2007

**Appendix A**  
**NCLC STAFF HOURS**  
**IN R.04-12-001**  
**AND LAFHEY MATRIX**

| Selection Criteria  |                            |                          |             |       |
|---|----------------------------|--------------------------|-------------|-------|
| Slip.Classification   | Open                       |                          |             |       |
| Fund.Selection  | Include: L - CPUC/Lifeline |                          |             |       |
| Slip.Date   | 11/1/2006 - 7/2/2007       |                          |             |       |
| Slip ID   | Dates and Time             | Timekeeper<br>Activity   | Fund Source | Units |
| Description   | Status                     | Reference                |             |       |
| Slip Value  |                            |                          |             |       |
| <u>Fund Source: L - CPUC/Lifeline</u>   |                            |                          |             |       |
| 107272  | TIME                       | OW - Wein                |             | 4.50  |
| 11/2/2006   |                            | 2 - general work (non-lo |             |       |
| WIP   |                            | L - CPUC/Lifeline        |             |       |
| Atty fees: ULTS verification -- draft order suspending the verification. Research into the problem via CA advocacy groups. ID issues. [printed materials ADA compliance, language translations; additional forms; auto dialer- ADA, telemarketing; outreach, fees, oversight #####] |                            |                          |             |       |
| 107273  | TIME                       | OW - Wein                |             | 1.00  |
| 11/2/2006   |                            | 2 - general work (non-lo |             |       |
| WIP   |                            | L - CPUC/Lifeline        |             |       |
| atty fees: ULTS call w/ CA consumer groups re proposed suspension of verification to strategize on comments [printed materials ADA compliance, language translations; additional forms; auto dialer- ADA, telemarketing; outreach, fees, oversight #####]                           |                            |                          |             |       |
| 107274  | TIME                       | OW - Wein                |             | 2.50  |
| 11/2/2006   |                            | 2 - general work (non-lo |             |       |
| WIP   |                            | L - CPUC/Lifeline        |             |       |
| atty fees: ULTS verification -- Draft comments on behalf of joint consumers [printed materials ADA compliance, language translations; additional forms; auto dialer- ADA, telemarketing; outreach, fees, oversight #####]   |                            |                          |             |       |
| 107276  | TIME                       | OW - Wein                |             | 0.50  |
| 11/3/2006   |                            | 2 - general work (non-lo |             |       |
| WIP   |                            | L - CPUC/Lifeline        |             |       |
| atty fees: ULTS verification -- draft joint consumers comments to order suspending verification [printed materials ADA compliance, language translations; additional forms; auto dialer- ADA, telemarketing; outreach, fees, oversight #####]                                       |                            |                          |             |       |



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| Slip ID   | Dates and Time | Timekeeper<br>Activity   | Fund Source | Reference | Units |
|---|----------------|--------------------------|-------------|-----------|-------|
| 107279  | TIME           | OW - Wein                |             |           | 1.50  |
| 11/6/2006   |                | 2 - general work (non-lo |             |           |       |
| WIP   |                | L - CPUC/Lifeline        |             |           |       |
| atty fees: ULTS verification -- preparation of joint consumers' comments [printed materials ADA compliance, language translations; additional forms; auto dialer- ADA, telemarketing; outreach, fees, oversight #####]  |                |                          |             |           |       |
| 107280  | TIME           | OW - Wein                |             |           | 1.00  |
| 11/6/2006   |                | 2 - general work (non-lo |             |           |       |
| WIP   |                | L - CPUC/Lifeline        |             |           |       |
| atty fees: ULTS verification -- filing joint consumers' comments  |                |                          |             |           |       |
| 107292  | TIME           | OW - Wein                |             |           | 4.00  |
| 11/9/2006   |                | 2 - general work (non-lo |             |           |       |
| WIP   |                | L - CPUC/Lifeline        |             |           |       |
| atty fees: ULTS verification -- prep for 2-day workshop   |                |                          |             |           |       |
| 107293  | TIME           | OW - Wein                |             |           | 1.00  |
| 11/9/2006   |                | 2 - general work (non-lo |             |           |       |
| WIP   |                | L - CPUC/Lifeline        |             |           |       |
| atty fees: ULTS verification -- consumer advocates' conference call to prep for 2-day workshop [correctable denials/appeals; printed materials ADA compliance, language translations; additional forms; auto dialer- ADA, telemarketing; outreach, fees, oversight #####] |                |                          |             |           |       |
| 107294  | TIME           | OW - Wein                |             |           | 9.00  |
| 11/12/2006  |                | 2 - general work (non-lo |             |           |       |
| WIP   |                | L - CPUC/Lifeline        |             |           |       |
| atty fees: ULTS verification -- travel to CA for 2-day workshop in SF   |                |                          |             |           |       |
| 107295  | TIME           | OW - Wein                |             |           | 6.00  |
| 11/13/2006  |                | 2 - general work (non-lo |             |           |       |
| WIP   |                | L - CPUC/Lifeline        |             |           |       |
| atty fees: ULTS verification -- workshop [correctable denials/appeals; printed materials ADA compliance, language translations; additional forms; auto dialer- ADA, telemarketing; outreach, fees, oversight #####]   |                |                          |             |           |       |
| 107302  | TIME           | OW - Wein                |             |           | 1.75  |
| 11/15/2006  |                | 2 - general work (non-lo |             |           |       |
| WIP   |                | L - CPUC/Lifeline        |             |           |       |

| Slip ID   | Dates and Time | Status | Description | Slip Value | Timekeeper | Activity                 | Fund Source       | Reference | Units |
|---|----------------|--------|-------------|------------|------------|--------------------------|-------------------|-----------|-------|
| Atty fees: ULTS verification -- coordinate prep and participate in CA consumer advocates' call to determine coverage of working groups [outreach, oversight data on complaints, translations #####] |                |        |             |            |            |                          |                   |           |       |
| 107309  | 11/16/2006     | TIME   | WIP         |            | OW - Wein  | 2 - general work (non-lo | L - CPUC/Lifeline |           | 1.00  |
| Atty fees: ULTS verification -- prep for implementation working group call [outreach, oversight data on complaints, translations, ADA compliance #####]   |                |        |             |            |            |                          |                   |           |       |
| 107310  | 11/16/2006     | TIME   | WIP         |            | OW - Wein  | 2 - general work (non-lo | L - CPUC/Lifeline |           | 2.00  |
| Atty fees: ULTS verification -- implementation working group call   |                |        |             |            |            |                          |                   |           |       |
| 107338  | 11/30/2006     | TIME   | WIP         |            | OW - Wein  | 2 - general work (non-lo | L - CPUC/Lifeline |           | 3.00  |
| atty fees: ULTS verification -- prep for marketing working group call [outreach, CBOs, Agencies, Fed pub requirements #####]  |                |        |             |            |            |                          |                   |           |       |
| 107339  | 11/30/2006     | TIME   | WIP         |            | OW - Wein  | 2 - general work (non-lo | L - CPUC/Lifeline |           | 2.00  |
| atty fees: ULTS verification -- marketing working group call [outreach, CBOs, Agencies, Fed pub requirements #####]   |                |        |             |            |            |                          |                   |           |       |
| <hr/>   |                |        |             |            |            |                          |                   |           |       |
| Total: OW - Wein  |                |        |             |            | Billable   | 40.75                    |                   |           |       |
|   |                |        |             |            | Unbillable |                          |                   |           |       |
|   |                |        |             |            | Total      | 40.75                    |                   |           |       |
| 108190  | 12/6/2006      | TIME   | WIP         |            | CH- Harak  | 2 - general work (non-lo | L - CPUC/Lifeline |           | 0.50  |
| [ATTORNEY'S FEES/CPUC Lifeline docket] Confer w. Olivia Wein re: recertification of Lifeline eligibility; outreach & publicity to generate applications.  |                |        |             |            |            |                          |                   |           |       |
| <hr/>   |                |        |             |            |            |                          |                   |           |       |
| Total: CH- Harak  |                |        |             |            | Billable   | 0.50                     |                   |           |       |

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| Slip ID | Dates and Time | Status | Description  | Timekeeper<br>Activity<br>Fund Source<br>Reference         | Units |
|---------|----------------|--------|--|--|-------|
|         |                |        |  | Unbillable<br>Total  | 0.50  |
| 108665  | 12/6/2006      | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 0.50  |
|         |                |        | consultation with Charlie Harak re ULTS marketing  |  |       |
| 108664  | 12/6/2006      | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 1.00  |
|         |                |        | CPUC marketing working group call  |  |       |
| 108675  | 12/13/2006     | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 0.50  |
|         |                |        | CPUC ULTS Marketing Working Group call   |  |       |
| 108676  | 12/13/2006     | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 0.50  |
|         |                |        | prep for CPUC ULTS Marketing Working Group call and prepare<br>summary of the call for advocates |  |       |
| 108682  | 12/14/2006     | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 1.00  |
|         |                |        | CPUC ULTS implementation call  |  |       |
| 108684  | 12/14/2006     | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 0.50  |
|         |                |        | prep for ULTS implementation working group call  |  |       |
| 108685  | 12/14/2006     | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 0.50  |
|         |                |        | Follow-up w/ DC and OH re use of autodialers w/ verification                                     |  |       |
| 108690  | 12/18/2006     | TIME   | WIP  | OW - Wein<br>2 - general work (non-lo<br>L - CPUC/Lifeline | 0.75  |

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| Slip ID   | Dates and Time           | Timekeeper<br>Activity<br>Fund Source<br>Reference | Units |
|---|--------------------------|--|-------|
| Description   | Slip Value               |  |       |
| Gather and send information on DC and OH use of autodialers w/<br>verification for CPUC staff |                          |  |       |
| 110526 TIME   | OW - Wein                | 0.50   |       |
| 1/4/2007  | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |
| Prepare memo for consumer groups re implementation working group<br>call                      |                          |  |       |
| 110525 TIME   | OW - Wein                | 0.50   |       |
| 1/4/2007  | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |
| ULTS implementation working group call  |                          |  |       |
| 110524 TIME   | OW - Wein                | 1.00   |       |
| 1/4/2007  | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |
| review ULTS notes from the last workshop to prepare for ULTS impl<br>working grp call         |                          |  |       |
| 110549 TIME   | OW - Wein                | 1.00   |       |
| 1/16/2007   | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |
| Prep for implementation working group call  |                          |  |       |
| 110550 TIME   | OW - Wein                | 1.50   |       |
| 1/16/2007   | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |
| Implementation working group call   |                          |  |       |
| 110593 TIME   | OW - Wein                | 0.50   |       |
| 1/30/2007   | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |
| ULTS implementation call  |                          |  |       |
| 112607 TIME   | OW - Wein                | 0.75   |       |
| 2/6/2007  | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |
| Attorneys Fees: Participate in CPUC implementation working group<br>call                      |                          |  |       |
| 112608 TIME   | OW - Wein                | 0.25   |       |
| 2/6/2007  | 2 - general work (non-lo |  |       |
| WIP   | L - CPUC/Lifeline        |  |       |

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| Slip ID  | Dates and Time | Timekeeper<br>Activity   | Fund Source | Units |
|--|----------------|--------------------------|-------------|-------|
| Description  |                | Reference                |             |       |
| Slip Value   |                |                          |             |       |
| Attorneys Fees: case management: prepare summary of CPUC implementation working group call for consumer groups |                |                          |             |       |
| 112647   | TIME           | OW - Wein                |             | 1.00  |
| 2/20/2007  |                | 2 - general work (non-lo |             |       |
| WIP  |                | L - CPUC/Lifeline        |             |       |
| attorneys fees -- participation in Lifeline implementation group conference call                               |                |                          |             |       |
| 112649   | TIME           | OW - Wein                |             | 0.50  |
| 2/20/2007  |                | 2 - general work (non-lo |             |       |
| WIP  |                | L - CPUC/Lifeline        |             |       |
| attorneys fees: case management: prepare summary of implementation working group call for consumer groups      |                |                          |             |       |
| 114086   | TIME           | OW - Wein                |             | 1.50  |
| 3/1/2007   |                | 2 - general work (non-lo |             |       |
| WIP  |                | L - CPUC/Lifeline        |             |       |
| attys fees: Read Commissioner G's ACR; develop consumer group response   |                |                          |             |       |
| 114089   | TIME           | OW - Wein                |             | 1.00  |
| 3/2/2007   |                | 2 - general work (non-lo |             |       |
| WIP  |                | L - CPUC/Lifeline        |             |       |
| attys fees: ULTS marketing group call  |                |                          |             |       |
| 114100   | TIME           | OW - Wein                |             | 1.50  |
| 3/6/2007   |                | 2 - general work (non-lo |             |       |
| WIP  |                | L - CPUC/Lifeline        |             |       |
| attys fees: Implementation group call  |                |                          |             |       |
| 114101   | TIME           | OW - Wein                |             | 1.00  |
| 3/6/2007   |                | 2 - general work (non-lo |             |       |
| WIP  |                | L - CPUC/Lifeline        |             |       |
| attys fees: prepare feedback on marketing group materials/carrier postcard                                     |                |                          |             |       |
| 114105   | TIME           | OW - Wein                |             | 6.00  |
| 3/7/2007   |                | 2 - general work (non-lo |             |       |
| WIP  |                | L - CPUC/Lifeline        |             |       |
| attys fees: travel to Cal for 3/8 public meeting re Commissioner G's ACR                                       |                |                          |             |       |

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| Slip ID  | Dates and Time | Status | Description | Slip Value | Timekeeper<br>Activity | Fund Source              | Reference         | Units |
|--|----------------|--------|-------------|------------|------------------------|--------------------------|-------------------|-------|
| 114109   | 3/8/2007       | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 2.50  |
| attys fees: 3/8 Commissioner G's public meeting                                  |                |        |             |            |                        |                          |                   |       |
| 114110   | 3/8/2007       | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 9.00  |
| attys fees: travel from 3/8 public meeting re Commissioner G's ACR               |                |        |             |            |                        |                          |                   |       |
| 114114   | 3/12/2007      | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 1.50  |
| attys fees: participate in marketing call  |                |        |             |            |                        |                          |                   |       |
| 114119   | 3/13/2007      | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 1.25  |
| attys fees: review and comment on marketing group's postcard and reminder notice |                |        |             |            |                        |                          |                   |       |
| 114144   | 3/20/2007      | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 1.50  |
| attys fees: Implementation working group call                                    |                |        |             |            |                        |                          |                   |       |
| 114159   | 3/26/2007      | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 1.50  |
| attys fees: marketing working group call   |                |        |             |            |                        |                          |                   |       |
| 114165   | 3/27/2007      | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 0.75  |
| attys fees: implementation working group call                                    |                |        |             |            |                        |                          |                   |       |
| 115235   | 4/10/2007      | TIME   | WIP         |            | OW - Wein              | 2 - general work (non-lo | L - CPUC/Lifeline | 1.75  |

attys fees: Implementation working group call

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| Slip ID   | Dates and Time | Status | Description | Timekeeper Activity      | Fund Source | Reference | Units |
|---|----------------|--------|-------------|--------------------------|-------------|-----------|-------|
| 115240  | TIME           |        |             | OW - Wein                |             |           | 2.50  |
| 4/11/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: read proposed decision and staff report and prepare notes for comments (standard mail/timeline; Solix audit; marketing and outreach; enrollment upon 1st contact; #####)  |                |        |             |                          |             |           |       |
| 115241  | TIME           |        |             | OW - Wein                |             |           | 1.00  |
| 4/11/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: conference call with TURN, DRA and LIF to review proposed decision and staff report and outline Joint Consumers' comments (standard mail/timeline; Solix audit; marketing and outreach; enrollment upon 1st contact; #####) |                |        |             |                          |             |           |       |
| 115252  | TIME           |        |             | OW - Wein                |             |           | 0.50  |
| 4/16/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: Notes to Ana Montes/LIF in preperation of the 4/16/07 Marketing Working Group call  |                |        |             |                          |             |           |       |
| 115259  | TIME           |        |             | OW - Wein                |             |           | 0.50  |
| 4/17/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: edit the Carrier Welcome letter   |                |        |             |                          |             |           |       |
| 115264  | TIME           |        |             | OW - Wein                |             |           | 2.00  |
| 4/18/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: draft comments to the proposed decision and staff report (standard mail/timeline; Solix audit; marketing and outreach; enrollment upon 1st contact; #####)  |                |        |             |                          |             |           |       |
| 115269  | TIME           |        |             | OW - Wein                |             |           | 5.00  |
| 4/19/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: draft comments to the proposed decision and staff report (standard mail/timeline; Solix audit; marketing and outreach; enrollment upon 1st contact; #####)  |                |        |             |                          |             |           |       |
| 115273  | TIME           |        |             | OW - Wein                |             |           | 0.50  |
| 4/21/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |

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National Consumer Law Center  
Slip Listing

| Slip ID  | Dates and Time | Timekeeper<br>Activity<br>Fund Source<br>Reference | Units |
|--|----------------|--|-------|
| attys fees: edit Joint Consumer Comments to the proposed decision and staff report (standard mail/timeline; Solix audit; marketing and outreach; enrollment upon 1st contact; #####)   |                |  |       |
| 115274   | TIME           | OW - Wein  | 3.50  |
| 4/23/2007  |                | 2 - general work (non-lo                           |       |
| WIP  |                | L - CPUC/Lifeline                                  |       |
| attys fees: write and edit Joint Consumer Comments to the proposed decision and staff report (standard mail/timeline; Solix audit; marketing and outreach; enrollment upon 1st contact; #####)                                   |                |  |       |
| 115280   | TIME           | OW - Wein  | 2.25  |
| 4/24/2007  |                | 2 - general work (non-lo                           |       |
| WIP  |                | L - CPUC/Lifeline                                  |       |
| attys fees: read through other parties comments on the proposed decision and staff report and take notes for reply   |                |  |       |
| 115285   | TIME           | OW - Wein  | 0.50  |
| 4/25/2007  |                | 2 - general work (non-lo                           |       |
| WIP  |                | L - CPUC/Lifeline                                  |       |
| attys fees: review AT&T's proposals in preparation for the Implementation call   |                |  |       |
| 115286   | TIME           | OW - Wein  | 2.00  |
| 4/25/2007  |                | 2 - general work (non-lo                           |       |
| WIP  |                | L - CPUC/Lifeline                                  |       |
| attys fees: Implementation Working Group call  |                |  |       |
| 115288   | TIME           | OW - Wein  | 1.00  |
| 4/25/2007  |                | 2 - general work (non-lo                           |       |
| WIP  |                | L - CPUC/Lifeline                                  |       |
| attys fees: conference call with TURN, DRA and LIF to discuss comments on the proposed decision and staff report and outline the Joint Consumers' reply ( standard mail/timeline; enrollment upon 1st contact; backbills; #####) |                |  |       |
| 115289   | TIME           | OW - Wein  | 5.00  |
| 4/26/2007  |                | 2 - general work (non-lo                           |       |
| WIP  |                | L - CPUC/Lifeline                                  |       |
| attys fees: Prepare reply commens to the proposed decision and staff report ( standard mail/timeline; enrollment upon 1st contact; backbills; #####)   |                |  |       |



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National Consumer Law Center  
Slip Listing

| Slip ID   | Dates and Time | Status | Description | Timekeeper Activity      | Fund Source | Reference | Units |
|---|----------------|--------|-------------|--------------------------|-------------|-----------|-------|
| 115295  | TIME           |        |             | OW - Wein                |             |           | 2.00  |
| 4/30/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: edit and finalize Joint Consumers' reply comments on the proposed decision and staff report (standard mail/timeline; enrollment upon 1st contact; backbills; #####) |                |        |             |                          |             |           |       |
| 117475  | TIME           |        |             | OW - Wein                |             |           | 0.75  |
| 5/1/2007  |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees -- Read filed reply comments   |                |        |             |                          |             |           |       |
| 117491  | TIME           |        |             | OW - Wein                |             |           | 1.00  |
| 5/14/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: Read through Decision   |                |        |             |                          |             |           |       |
| 117510  | TIME           |        |             | OW - Wein                |             |           | 0.25  |
| 5/17/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: Consumer Advocates' conference call re strategy moving forward after the Decision.  |                |        |             |                          |             |           |       |
| 117521  | TIME           |        |             | OW - Wein                |             |           | 0.50  |
| 5/21/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: participate in Lifeline marketing call  |                |        |             |                          |             |           |       |
| 117531  | TIME           |        |             | OW - Wein                |             |           | 1.50  |
| 5/23/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attys fees: participation on the implementation working group call  |                |        |             |                          |             |           |       |
| 118824  | TIME           |        |             | OW - Wein                |             |           | 0.75  |
| 6/12/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |
| attorney's fees: Participate in Marketing Working Group conference call   |                |        |             |                          |             |           |       |
| 118869  | TIME           |        |             | OW - Wein                |             |           | 0.75  |
| 6/26/2007   |                |        |             | 2 - general work (non-lo |             |           |       |
| WIP   |                |        |             | L - CPUC/Lifeline        |             |           |       |

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National Consumer Law Center  
Slip Listing

| Slip ID  | Timekeeper  |                          |        |  |
|--|-------------|--------------------------|--------|--|
| Dates and Time   | Activity    |                          |        |  |
| Status   | Fund Source |                          |        |  |
| Description  | Reference   |                          | Units  |  |
| Slip Value   |             |                          |        |  |
| attorney's fees: participation in Implementation Working Group call (1st class mail, outreach rfp; Solix letter CSRs involvement w/ appeals) |             |                          |        |  |
| 119098   | TIME        | OW - Wein                | 0.75   |  |
| 6/27/2007  |             | 2 - general work (non-lo |        |  |
| WIP  |             | L - CPUC/Lifeline        |        |  |
| Attys fees: Implementation Working Group Call  |             |                          |        |  |
| 119109   | TIME        | OW - Wein                | 4.00   |  |
| 6/29/2007  |             | 2 - general work (non-lo |        |  |
| WIP  |             | L - CPUC/Lifeline        |        |  |
| Attys Fees: Prepare Intervenor Comp Request  |             |                          |        |  |
| 119112   | TIME        | OW - Wein                | 3.50   |  |
| 7/2/2007   |             | 2 - general work (non-lo |        |  |
| WIP  |             | L - CPUC/Lifeline        |        |  |
| Attys Fees: Prepare Intervenor Comp Request  |             |                          |        |  |
| Total: OW - Wein   |             |                          |        |  |
|  | Billable    |                          | 85.50  |  |
|  | Unbillable  |                          |        |  |
|  | Total       |                          | 85.50  |  |
| Total: L - CPUC/Lifeline   |             |                          |        |  |
|  | Billable    |                          | 126.75 |  |
|  | Unbillable  |                          |        |  |
|  | Total       |                          | 126.75 |  |
| Grand Total  |             |                          |        |  |
|  | Billable    |                          | 126.75 |  |
|  | Unbillable  |                          |        |  |
|  | Total       |                          | 126.75 |  |



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## LAFFEY MATRIX 2003 - 2006

| Experience   | 03-04 | 04-05 | 05-06 |
|--------------|-------|-------|-------|
| 20+ years    | 380   | 390   | 405   |
| 11-19 years  | 335   | 345   | 360   |
| 8-10 years   | 270   | 280   | 290   |
| 4-7 years    | 220   | 225   | 235   |
| 1-3 years    | 180   | 185   | 195   |
| Paralegals & | 105   | 110   | 115   |
| Law Clerks   |       |       |       |

Years (Rate for June 1 - May 31, based on prior year's CPI-U)

## Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia. The matrix is intended to be used in cases in which a "fee-shifting" statute permits the prevailing party to recover "reasonable" attorney's fees. *See, e.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412 (b) (Equal Access to Justice Act). The matrix does not apply in cases in which the hourly rate is limited by statute. *See* 28 U.S.C. § 2412(d).

Last Updated on  
04/13/2007

2. This matrix is based on the hourly rates allowed by the District Court in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is commonly referred to by attorneys and federal judges in the District of Columbia as the "Laffey Matrix" or the "United States Attorney's Office Matrix." The column headed "Experience" refers to the years following the attorney's graduation from law school. The various "brackets" are intended to correspond to "junior associates" (1-3 years after law school graduation), "senior associates" (4-7 years), "experienced federal court litigators" (8-10 and 11-19 years), and "very experienced federal court litigators" (20 years or more). *See Laffey*, 572 F. Supp. at 371.
3. The hourly rates approved by the District Court in *Laffey* were for work done principally in 1981-82. The Matrix begins with those rates. *See Laffey*, 572 F. Supp. at 371 (attorney rates) & 386 n.74 (paralegal and law clerk rate). The rates for subsequent yearly periods were determined by adding the change in the cost of living for the Washington, D.C. area to the applicable rate for the prior year, and then rounding to the nearest multiple of \$5 (up if within \$3 of the next multiple of \$5). The result is subject to adjustment if appropriate to ensure that the relationship between the highest rate and the lower rates remains reasonably constant. Changes in the cost of living are measured by the Consumer Price Index for All Urban Consumers (CPI-U) for Washington-Baltimore, DC-MD-VA-WV, as announced by the Bureau of Labor Statistics for May of each year.
4. Use of an updated *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the United States Attorney's Office as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. *See Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n. 14, 1109 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1115 (1996). Lower federal courts in the District of Columbia have used this updated *Laffey* Matrix when determining whether fee awards under fee-shifting statutes are reasonable. *See, e.g., Blackman v. District of Columbia*, 59 F. Supp. 2d 37, 43 (D.D.C. 1999); *Jefferson v. Milvets System Technology, Inc.*, 986 F. Supp. 6, 11 (D.D.C. 1997); *Ralph Hoar & Associates v. Nat'l Highway Transportation Safety Admin.*, 985 F. Supp. 1, 9-10 n.3 (D.D.C. 1997); *Martini v. Fed. Nat'l Mtg Ass'n*, 977 F. Supp. 482, 485 n.2 (D.D.C. 1997); *Park v. Howard University*, 881 F. Supp. 653, 654 (D.D.C. 1995).

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Copied from [http://www.usdoj.gov/usao/dc/Divisions/Civil\\_Division/Laffey\\_Matrix\\_5.html](http://www.usdoj.gov/usao/dc/Divisions/Civil_Division/Laffey_Matrix_5.html) (7/2/07).

### **VERIFICATION**

I, Olivia Wein, am a staff attorney at the National Consumer Law Center and am authorized to make this verification. The statements in the foregoing document are true to the best of my knowledge, except for those matters that are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5<sup>th</sup> day of July, 2007 at Washington, DC.

/s/ Olivia Wein

Olivia Wein  
Staff Attorney  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**REQUEST OF NATIONAL CONSUMER LAW CENTER FOR AWARD OF COMPENSATION**” in R.04-12-001 by using the following service:

- Email service of the entire document as an attachment to parties of record who provided email addresses.
- US Mail Service via 1<sup>st</sup> class mail to parties of record who did not provide an email address.

Executed on July 2, 2007 at Washington, D.C.

/s/ Olivia Wein

Olivia Wein

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